

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**IN RE ETHICON, INC., PELVIC REPAIR
SYSTEM PRODUCTS LIABILITY
LITIGATION**

This Document Applies To All Actions

X

: CIVIL ACTION NO. 2:12-md-02327
: MDL No. 2327
: Judge Joseph R. Goodwin

X

**PLAINTIFFS' UNOPPOSED MOTION TO EXCEED THE PAGE LIMIT
FOR THEIR MEMORANDUM IN SUPPORT OF THEIR MOTION
FOR A FINDING OF SPOILATION AND FOR SANCTIONS**

COME NOW Plaintiffs to respectfully move this Court, pursuant to Local Rule 7.1(a)(2), for leave to file a brief in excess of the Court's 20-page limit for memoranda. Plaintiffs request leave to file a Memorandum in Support of Their Motion for a Finding of Spoliation and for Sanctions of no more than 25 pages in length—giving Plaintiffs as many as an additional five pages. The current draft of the brief is approximately 24 pages long.

In order to make the case for spoliation sanctions, Plaintiffs must go into great detail regarding Defendant Ethicon, Inc.'s destruction of important evidence, as well as the effect of this document destruction on Plaintiffs' ability to make their case. The brief explains the roles of a large number of Ethicon employees for whom few, if any, documents were produced as a part of their custodial files, despite those employees' long histories with the company. Notably, Ethicon destroyed the hard drive of the company's outgoing world-wide president, Renee Selman, removing five years' worth of information. Ethicon also lost or destroyed approximately 600 pounds of documents from Medscand, the original manufacturer of Ethicon's TVT product. These are two of the more blatant examples, but there are numerous other examples of missing information, as will be outlined by Plaintiffs' brief.

The first draft of the memorandum was nearly 50 pages long, and Plaintiffs have made a diligent effort to make the motion as succinct as possible, while still giving the Court a complete picture as to what has occurred and why it is important. The brief also discusses the Court's options if the Court decides to sanction Ethicon for its spoliation, and explains why certain remedies suggested by the Plaintiffs are appropriate.

Counsel for Defendant has been informed about the pending motion and is not opposed to the motion to exceed the standard page limit.

WHEREFORE, Plaintiffs respectfully request that the Court exercise its discretion under Local Rule 7.1(2) and grant Plaintiffs' motion to exceed the page limit by as many as five pages, thereby allowing Plaintiffs to file a Memorandum in Support of Their Motion for a Finding of Spoliation and for Sanctions of no more than 25 pages in length. A proposed Order is attached as Exhibit 1.

Dated: November 27, 2013

Respectfully submitted,

/s/ D. Renee Baggett
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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing motion on November 27, 2013, using the Court's CM-ECF filing system, thereby sending of the filing to all counsel of record for this matter.

/s/ D. Renee Baggett

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